

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

JAMES BROCKMAN

Plaintiff

v.

JUDGE JEFF ADDISON, ET AL.

Defendants

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Case No. 5:24cv105-RWS-JBB

ORDER

Plaintiff James Brockman, an inmate proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. § 1983 complaining of alleged violations of his constitutional rights. Docket No. 1. The named Defendants are Judge Jeff Addison, Assistant District Attorney Bradley Akins, Public Defender Deborah Moore, and Plaintiff's appointed Appellate Attorney Troy Hornsby. *Id.* The lawsuit was referred to United States Magistrate Judge J. Boone Baxter.

On October 2, 2024, the Magistrate Judge issued a Report and Recommendation, recommending the above lawsuit be dismissed with prejudice for failure to state a claim upon which relief may be granted because (1) Judge Addison is protected by judicial immunity; (2) Assistant District Attorney Bradley Akin is protected by prosecutorial immunity; (3) Plaintiff has shown no basis for injunctive relief against Judge Addison; and (4) Defense Counsel Deborah Moore and Appellate Attorney Troy Hornsby are not state actors and thus cannot be sued under 42 U.S.C. § 1983. Docket No. 8 at 5. The Magistrate Judge further recommended that the dismissal of this lawsuit should not prevent Plaintiff from challenging his conviction or incarceration through any lawful means, including but not limited to state or federal habeas corpus proceedings or executive clemency. *Id.*

A copy of the Report was sent to Plaintiff at his last known address, but no objections have been received. The Fifth Circuit has explained that where a letter is properly placed in the United States mail, a presumption exists that the letter reached its destination in the usual time and was actually received by the person to whom it was addressed. *Faciane v. Sun Life Assurance Company of Canada*, 931 F.3d 412, 420-21 and n.9 (5th Cir. 2019). Because no objections have been filed, Plaintiff is barred from *de novo* review by the District Judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the District Court. *Duarte v. City of Lewisville, Texas*, 858 F.3d 348, 352 (5th Cir. 2017).

The Court has reviewed the pleadings in this cause and the Report and Recommendation of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law"). It is accordingly

ORDERED that the Report and Recommendation of the Magistrate Judge (Docket No. 8) is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that the above-styled civil action is **DISMISSED** with prejudice for failure to state a claim upon which relief may be granted. The dismissal of this lawsuit shall not prevent Plaintiff from challenging his conviction or incarceration through any lawful means, including but not limited to state or federal habeas corpus proceedings or executive clemency.

So ORDERED and SIGNED this 12th day of November, 2024.


ROBERT W. SCHROEDER III
UNITED STATES DISTRICT JUDGE